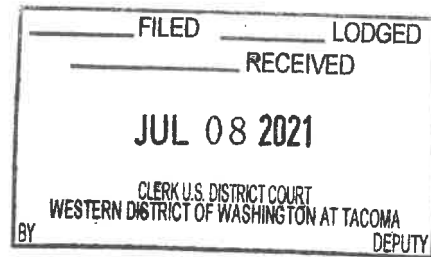


Honorable Benjamin H. Settle



UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON

Nathen Barton,

Plaintiff

v.

Serve All, Help All, Inc.

and

John Doe 1-10

Defendant(s).

CASE NO. 3:21-CV-05338-BHS

FIRST AMENDED COMPLAINT  
FOR A CIVIL CASE AND  
INJUNCTIVE RELIEF

Jury Trial: ☒ Yes ☐ No

**I. THE PARTIES TO THIS COMPLAINT**

**A. Plaintiff**

Name	Nathen Barton
Street Address	4618 NW 11 <sup>th</sup> Cir
City and County	Camas, Clark County
State and Zip Code	Washington 98607
Telephone Number	(718) 710-5784

**B. Defendant(s)**

## Defendant No. 1

Name	Serve All, Help All, Inc
Job or Title ( <i>if known</i> )	
Street Address	1503 South Coast Center Drive Suite 100
City and County	Costa Mesa
State and Zip Code	CA 92626
Telephone Number	(855) 622 - 2435

## Defendant No. 2

Name	John Doe 1-10
Job or Title ( <i>if known</i> )	
Street Address	Unknown
City and County	Unknown
State and Zip Code	Unknown
Telephone Number	Unknown

**II. BASIS FOR JURISDICTION**

Plaintiff Nathen Barton (hereinafter referred to as "Plaintiff") is a long-time resident of Clark County in Washington State. The text messages and phone calls received by Plaintiff were received by Plaintiff at his primary residence in Clark County, Washington State, during the year 2021.

Jurisdiction in this court is correct because of where Plaintiff resides, a nexus where the acts occurred, and Plaintiff is suing in part under federal statute the Telephone Consumer Protection Act of 1991, known as the TCPA, giving rise to a lawsuit that may be brought in Federal Court pursuant to Mims v. Arrow Fin. Services, LLC.

### III. STATEMENT OF CLAIM

On July 9, 2020, Plaintiff registered and paid for a Washington State (360) telephone area code cellular number to be primarily used by his minor child. It is a Protected Computer as it is used in a manner that affects interstate or foreign commerce or communication. The phone was on a very limited service plan, with each call, text, or data usage subtracting from a fixed amount of each available each month.

On or about 1:40PM, February 15, 2021, while in Clark County, Plaintiff received a phone call on that cell phone from (844) 622-2243. The entity placing the call used an automated dialing and announcing device, commonly known as a robocall. The call was placed to his 360-area code number. The start of the call was a recorded or artificially generated voice.

The call solicited services from the Nonprofit Alliance of Consumer Advocates (“NACA”) to prevent real estate foreclosure. Serve All, Help All, Inc., (“SAHA”) a California corporation, is doing business as (“*dba*”) Nonprofit Alliance of Consumer Advocates (“NACA”) with website <https://nacalaw.org/>.

Eventually Plaintiff reached a live person. The call was disconnected during the solicitation, and the same person called back within about a minute to continue the solicitation. Eventually the call disconnected again.

A complete and accurate recording of the first call can be heard at <https://youtu.be/b4ZBxSyDvdg>.

Redialing (844) 622-2243, Plaintiff reaches a Spanish language answering message, so it appears the calling number was faked.

SAHA does purport to be a non-profit entity but appears to be selling its own services and serves as a gateway to sell products from other entities. Immediately after SAHA was able to complete their telephone sales pitch, Plaintiff received an email from [ccotta@nacalaw.org](mailto:ccotta@nacalaw.org) (see

1 attached “Exhibit A”) in furtherance of the solicitation of SAHA services, and in the email, a  
2 Carlos Cotta solicited funds:

3 Good afternoon Mr. Barton, Here is the list of documents we are going to need from you.

4 Documents needed:

5 .

6 .

7 .

8 Credit Report Authorization Form (Fill out all 3 pages)

9 .

10 .

11 .

12 The Credit Report Authorization Form with SAHA letterhead was attached to the email  
13 sent to Plaintiff in Exhibit A Page 1 of this form (see attached “Exhibit B”) directly solicited  
14 payment in exchange for services. Direct from SAHA’s own email sent to Plaintiff, they  
15 immediately asked for a \$29-\$62 payment after completing their phone call sales pitch. And this  
16 money appears to go directly to SAHA. This is small potatoes compared to the next page.

17 On Exhibit A Page 2, Plaintiff “needed” to sign a document that stated:

18 “I hereby authorize the Lender Broker to verify my past and present employment  
19 earnings records, bank accounts, stock holdings and other asset balances that are needed  
20 to process my mortgage loan application.”

21 “The information the Lender/Broker obtains is only to be used in the processing of my  
22 application for a mortgage loan.”

23 Finally, on Exhibit A Page 3, Plaintiff “needed” to sign a document that stated:

24 I/We have applied for a mortgage loan from BAY BALLEY MORTGAGE GROUP.

I/We fully understand that it is a Federal crime punishable by fine or imprisonment or  
both, to knowingly make any false statements when applying for this mortgage”

The documents provided by SAHA make clear that the robocall and ensuing telephone  
conversation is all a sales pitch for a mortgage application, with SAHA directly pocketing  
money.

1 This matches up with a Yelp review at [https://www.yelp.com/biz/nonprofit-alliance-of-](https://www.yelp.com/biz/nonprofit-alliance-of-consumer-advocates-costa-mesa)  
2 [consumer-advocates-costa-mesa](https://www.yelp.com/biz/nonprofit-alliance-of-consumer-advocates-costa-mesa)

3 “They structured a loan to save my house that I couldn't afford. I was charged over  
4 \$50,000 in closing costs with tens of thousands in fees going into their pockets from fees  
5 that no nonprofit organization can legally charge, but they did, and they didn't even try to  
6 hide it. They call themselves a Christian Non Profit organization. There is NOTHING  
7 Christian about this group of Godless people. It's the opposite. The Antichrist is doing  
8 great work here. Stay far away from these ruthless, thieving impersonators, they will not  
9 help you. They will lie to you like it's the most natural thing to do in the world. You will  
10 end up in a much worse situation, in twice as much debt and in the end, they will be the  
11 ones taking your home.”

12 Naturally, the mortgage application would come with fees much greater than the \$29-\$62  
13 initial fee demanded for a ‘credit check’. It seems that some unlucky souls are charged other  
14 fees, from another Yelp review at the above URL:

15 “I spent months working with this organization. Your end game was that I need to pay an  
16 attorney \$3900 for 'research and investigation' because you say my mortgage company  
17 never responded, which is erroneous. . . . You requested money.”

18 Upon information and belief, SAHA’s primary business model is collecting fees and  
19 referring consumers to vendors for “required services”, and then taking a portion of the payments  
20 from those vendors.

21 Over the next few days, SAHA went on to robocall solicit plaintiff twice more at the 360-  
22 area code number and telephone solicited plaintiff on his personal cell phone with a 972-area  
23 code at 4:49PM on February 15, 2021, 1:18PM on February 17, 2021, and 4:30PM on February  
24 17, 2021, and 5:43PM on February 17, 2021.

25 In each of the three robocalls Plaintiff received from SAHA, the start of the call was an  
26 identical prerecorded or artificial voice message, the message and the person who got on the line  
27 after did not identify him or herself, and the company behind the call, and the purpose of the call  
28 within the first 60 seconds of initiating the calls, in violation of Washington State Law.

1 The final robocall to the 360-area code number was on February 22, 2021, after which  
2 Plaintiff finally was able to speak to someone at SAHA who identified himself as a manager.  
3 This person professed to being unaware that robocalls are illegal under federal law without  
4 express written permission.

5 Plaintiff's personal cell phone with the 972-area code has been registered on the National  
6 Do Not Call List more than 31 days prior to February 15, 2021.

7 John Doe 1-10 are other people or legal entities that may share in liability for their  
8 involvement in placing the calls or have such involvement in SAHA that they have personal  
9 liability for the acts alleged in this complaint.

#### 10 **NACA and SAHA are Annoying the Public**

11 Plaintiff is not in foreclosure, and the telephone calls placed by SAHA to Plaintiff and  
12 Plaintiff's minor son were annoying and disturbed the peace and solitude of their home.

13 Plaintiff had no established business relationship with NACA or SAHA or any  
14 foreclosure business and has not consented to receive any foreclosure-related telemarketing from  
15 anyone.

#### 16 **IV. RELIEF**

17 SAHA violated Washington State, and Federal laws by using automated telephone  
18 dialing devices and using prerecorded or artificial voices to engage in telephone solicitation of  
19 Plaintiff's cell phone without consent.

#### 20 **Federal Law Violations**

21 TCPA 47 U.S.C. 227(c)(5) states:

22 "A person who has received more than one telephone call within any 12-month period by  
23 or on behalf of the same entity in violation of the regulations prescribed under this  
24 subsection may, if otherwise permitted by the laws or rules of court of a State bring in an  
appropriate court of that State."

1 TCPA regulations prohibit "telephone solicitation" calls to phone lines listed on the do-  
 2 not-call registry. 47 C.F.R. § 64.1200(c)(2). Telephone solicitation is defined as "the initiation  
 3 of a telephone call or message for the purpose of encouraging the purchase or rental of, or  
 4 investment in, property, goods, or services." 47 C.F.R. § 64.1200(f)(14); 47 U.S.C. § 227(a)(4).

5 Plaintiff alleges and is supported by Exhibits A and B that SAHA placed the telephone  
 6 solicitation calls to Plaintiff for the purposes of encouraging the purchase of foreclosure  
 7 prevention services. To wit, Exhibit B is a form by which SAHA asked for between \$29 and \$62  
 8 and a mortgage loan application from Plaintiff, on SAHA letterhead.

9 SAHA violated 47 U.S.C. 227(c)(5) four times by calling Plaintiff's cellular telephone  
 10 number without consent for the purposes of encouraging the purchase of mortgage foreclosure  
 11 services.

12 TCPA 47 U.S.C. 227(b) states:

13 "It shall be unlawful for any person within the United States . . . (A) to make any call  
 14 (other than a call made for emergency purposes or made with the express consent of the  
 15 called party) using any automatic telephone dialing system or an artificial or prerecorded  
 voice . . . (iii) to any telephone number assigned to a . . . cellular telephone service . . .".

16 There is no exception for charitable organizations. *Aranda v. Caribbean Cruise Line,*  
 17 Inc., No. 12 C 4069, 2016 WL 1555576, at \*6 (N.D. Ill. Apr. 18, 2016) ("even non-  
 18 telemarketing, informational calls, such as those by or on behalf of tax-exempt non-profit  
 19 organizations . . . require either written or oral consent if made to wireless consumers"). *Zean v.*  
 20 *Fairview Health Servs.*, 858 F.3d 520, 523 (8th Cir. 2017) (nonprofit organization may not  
 21 "[i]nitiate ... any telephone call that ... constitutes telemarketing ... to any [cellular telephone  
 22 number] other than a call made with ... the prior express consent of the called party.") (quoting  
 23 47 C.F.R. § 64.1200(a)(2)).



SAHA violated 47 U.S.C. 227(b) three (3) times by calling Plaintiff's cellular telephone number three (3) times without consent, while using an artificial or prerecorded voice.

TCPA 47 U.S.C. 227(c)(5) states:

"A person who has received more than one telephone call within any 12-month period by or on behalf of the same entity in violation of the regulations prescribed under this subsection may, if otherwise permitted by the laws or rules of court of a State bring in an appropriate court of that State."

TCPA regulations prohibit "telephone solicitation" calls to phone lines listed on the do-not-call registry. 47 C.F.R. § 64.1200(c)(2). Telephone solicitation is defined as "the initiation of a telephone call or message for the purpose of encouraging the purchase or rental of, or investment in, property, goods, or services." 47 C.F.R. § 64.1200(f)(14); 47 U.S.C. § 227(a)(4).

Plaintiff alleges and is supported by Exhibits A and B that SAHA placed the telephone solicitation calls to Plaintiff for the purposes of encouraging the purchase of foreclosure prevention services. To wit, Exhibit B is a form by which SAHA asked for between \$29 and \$62 and a mortgage loan application from Plaintiff, on SAHA letterhead.

SAHA violated 47 U.S.C. 227(b) three times by calling Plaintiff's cellular telephone number three (3) times without consent, while using an artificial or prerecorded voice.

### **Washington State Law Violations**

#### **RCW 80.36.390**

Washington State RCW 80.36.390(2) states:

"A person making a telephone solicitation must identify him or herself and the company or organization on whose behalf the solicitation is being made and the purpose of the call within the first thirty seconds of the telephone call."

SAHA violated Washington State RCW 80.36.390(2) three (3) times by calling Plaintiff's cellular telephone number three (3) times without consent, and not identifying "him or



1 herself and the company or organization on whose behalf the solicitation is being made and the  
2 purpose of the call within the first thirty seconds of the telephone call”.

3 **RCW 80.36.400**

4 Washington State RCW 80.36.400(2) states:

5 “No person may use an automatic dialing and announcing device for purposes of  
6 commercial solicitation. This section applies to all commercial solicitation intended to be  
received by telephone customers within the state.”

7 SAHA violated Washington State RCW 80.36.400(2) three (3) times by calling  
8 Plaintiff’s cellular telephone number three (3) times without consent, while using an automatic  
9 dialing and announcing device for commercial solicitation.

10 RCW 80.36.400 defines “Commercial solicitation means the unsolicited initiation of a  
11 telephone conversation for the purpose of encouraging a person to purchase property, goods, or  
12 services.” There is no exception for charitable organizations who hawk goods and services via  
13 unsolicited telephone conversations.

14 **RCW 19.158**

15 On information and belief, TRG and their agents were not registered as Commercial  
16 Telephone Solicitors with the Washington State Department of Licensing when any of the  
17 solicitation calls were placed to Plaintiff, in violation of RCW 19.158.050(1).

18 Defendants violated Washington State RCW 19.158.150 seven (7) times by soliciting  
19 Plaintiff on his cell phone while they were not registered on with the Washington State  
20 Department of Licensing as Commercial Telephone Solicitors, or while working on behalf of an  
21 unregistered Commercial Telephone Solicitor.

22 Washington State RCW 19.158.110(1) says:

23 Within the first minute of the telephone call, a commercial telephone solicitor or  
24 salesperson shall:

- 1 (a) Identify himself or herself, the company on whose behalf the solicitation is  
2 being made, the property, goods, or services being sold;

3 SAHA violated Washington State RCW 19.158.110(a) three (3) times by calling  
4 Plaintiff's cellular telephone number three (3) times without consent, and not identifying  
5 "himself or herself, the company on whose behalf the solicitation is being made, the property,  
6 goods, or services being sold" in the first sixty second of the calls.

### 7 **Treble Damages**

8 Plaintiff believes the record shows that SAHA violations of the law were willful or  
9 knowing.

10 On information and belief, SAHA just calls whatever poor souls they think might be in  
11 mortgage foreclosure, and in their desperate hour, offer them services that come with a high  
12 price tag. And they clearly do not care about robocall laws or FTC *do-not-call* lists. Therefore,  
13 Plaintiff asks for treble damages under TCPA 47 U.S.C. 227(c)(5), and the presumption that  
14 violations of Washington State RCW 19.158 triple damages under the Washington State Unfair  
15 Business Practices Act.

### 16 **Injunctive Relief**

17 TCPA 47 U.S.C. 227(b)(3)(A) and 47 U.S.C. 227(c)(5)(A) allows "an action based on a  
18 violation of the regulations prescribed under this subsection to enjoin such violation".

19 Washington State RCW 80.36.390(6) says:

20 A person aggrieved by repeated violations of this section may bring a civil action  
21 in superior court to enjoin future violations, to recover damages, or both.

22 Plaintiff is not unique – he simply had the misfortune to be targeted by Defendants' mass  
23 calling machine. It is reasonable to believe that Defendants have done this many times in the  
24 past and will continue harming the residents of this State and other States in the future.

Defendants are under the mistaken impression that the First Amendment allows them to reach

1 into telephone subscriber's homes and ring cell phones with robocalls without consent to gain  
2 business for themselves.

3 Plaintiff asks this Court to enjoin the Defendants from further violations of State and  
4 Federal telemarketing laws.

### 5 All Possible Damages

6 Plaintiff prays for all possible damages, in law and in equity, statutory, real, and punitive,  
7 that he might entitled too. These damages include but are not limited to court costs and attorney  
8 fees.

### 9 V. CERTIFICATION AND CLOSING

10 Under Federal Rule of Civil Procedure 11, by signing below, I certify to the best of my  
11 knowledge, information, and belief that this complaint: (1) is not being presented for an improper  
12 purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation;  
13 (2) is supported by existing law or by a nonfrivolous argument for extending, modifying, or  
14 reversing existing law; (3) the factual contentions have evidentiary support or, if specifically so  
15 identified, will likely have evidentiary support after a reasonable opportunity for further  
16 investigation or discovery; and (4) the complaint otherwise complies with the requirements of  
17 Rule 11.

18 I agree to provide the Clerk's Office with any changes to my address where case-related  
19 papers may be served. I understand that my failure to keep a current address on file with the  
20 Clerk's Office may result in the dismissal of my case.

21 Date of signing:

7/6/2021

22 Signature of Plaintiff



23 Printed Name of Plaintiff

Nathan Barton



## Exhibit A - Page 1

N B <farmersbranch2014@gmail.com>

### New Client Intake Packet

Carlos Cotta <ccotta@nacalaw.org>

To: "farmersbranch2014@gmail.com" <farmersbranch2014@gmail.com>

Cc: Ricardo Porcayo <rporcayo@nacalaw.org>

Wed, Feb 17, 2021 at 1:08 PM

Good afternoon Mr. Barton. Here is the list of documents we are going to need from you.  
Documents needed:

- Most recent mortgage statement from your lender
- 1 month of pay stubs/most recent pension statement/2020 social security awards letter
- 3 months of bank statements (all pages)
- 2018 and 2019 tax returns w/ W2s
- 1 recent utility bill (gas, electric or water)
- Hardship Letter (explaining what caused you to fall behind)
- Sign all pages on the Free Services Agreement that needs your signature after page 8
- Credit Report Authorization Form (fill out all 3 pages)
- RMA Form (please fill out pages and sign pages 5 & 6)
- 4506-T Form (please fill out, sign and date)
- Emergency Covid-19 Forbearance Form
- Missing Document Acknowledgement Form (sign and date) just in case you are missing any documents please sign it, so it can be ok to submit your file without this (these) documents.

**Respectfully,**

*Carlos M. Cotta*

**DRE Lic: 02082207**

**CA Real Estate Agent/Volunteer Advocate**

**Address:** 1503 South Coast Dr. Suite 100

Costa Mesa, CA 92626

**Direct:** 949.430.0475

**Office:** 877.243.4632

2/17/2021

Gmail - New Client Intake Packet

Fax: 949.502.0819  
www.nacalaw.org

## Exhibit A - Page 2



**NOTICE OF CONFIDENTIALITY :** This Email message and its attachments (if any) are intended solely for the use of the addressees hereof. In addition, this message and the attachments (if any) may contain information that is confidential, privileged and exempt from disclosure under applicable law. If you are not the intended recipient of this message, you are prohibited from reading, disclosing, reproducing, distributing, disseminating or otherwise using this transmission. Delivery of this message to any person other than the intended recipient is not intended to waive any right or privilege. If you have received this message in error, please promptly notify us and immediately delete this message from your system.

### 5 attachments

 **4506-T Form (1).pdf**  
95K

 **Credit Report Authorization Form (1).pdf**  
646K

 **Emergency Covid-19 Forbearance Request.pdf**  
276K

 **Missing Documents Acknowledgement Form.pdf**  
208K

 **Mortgage\_Assistance\_Application\_Bank-of-America (1).pdf**  
1012K

## Exhibit B - Page 1



NONPROFIT ALLIANCE  
of Greater Houston

# CREDIT CARD and CREDIT REPORT AUTHORIZATION FORM

PLEASE PRINT OUT AND COMPLETE THIS AUTHORIZATION FORM  
AND RETURN IT TO OUR OFFICE. (SIGN BELOW)

☐ CARD HOLDER AND APPLICANT ARE NOT THE SAME.

"I  hereby Authorize Vision One and or  
any of its Affiliates my expressed authorization to run a credit report.

NAME:

CARDHOLDER NAME:

ADDRESS:

Card type:



CREDIT CARD NUMBER

EXPIRATION DATE:

BILLING ZIP CODE:

CARD IDENTIFICATION NUMBER:  (last 3 digits)

Credit Pull: \$29.00(Single) AMOUNT CHARGED: 0 \$

(Married Couples Only) \$50.00(Double) AMOUNT CHARGED: 0 \$

Rapid Response add \$12.00 per Person: 0 \$

OTHER  \$

TOTAL: \$

SIGNATURE:



**Exhibit B - Page 2****Borrower Signature Authorization**

**Privacy Act Notice:** This information is to be used by the agency collecting it or its assignees in determining whether you qualify as a prospective mortgagor under its program. It will not be disclosed outside the agency except as required and permitted by law. You do not have to provide this information, but if you do not your application for approval as a prospective mortgagor or borrower may be delayed or rejected. The information requested in this form is authorized by Title 38, USC, Chapter 37 (if VA); by 12 USC, Section 1701 et. seq. (if HUD/FHA); by 42 USC, Section 1452b (if HUD/CPD); and Title 42 USC, 1471 et. seq., or 7 USC, 1921 et. seq. (if USDA/FmHA).

**Part I - General Information**

1. Borrower(s)		2. Name and address of Lender/Broker Faith First Bancorp Inc 1503 South Coast Drive, Suite 100 Costa Mesa, California 92626 Tel: 949-416-0158 Fax: 949-269-2079	
3. Date	4. Loan Number		

**Part II - Borrower Authorization**

I hereby authorize the Lender/Broker to verify my past and present employment earnings records, bank accounts, stock holdings, and any other asset balances that are needed to process my mortgage loan application. I further authorize the Lender/Broker to order a consumer credit report and verify other credit information, including past and present mortgage and landlord references. It is understood that a copy of this form will also serve as authorization.

The information the Lender/Broker obtains is only to be used in the processing of my application for a mortgage loan.

Borrower

Date

Borrower

Date



## Exhibit B - Page 3

### Borrower's Certification & Authorization

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#### Certification

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The undersigned certify the following:

1. I/We have applied for a mortgage loan from BAY VALLEY MORTGAGE GROUP.  
In applying for the loan.  
I/We completed a loan application containing various information on the purposes of the loan, the amount and source of the down payment, employment and income information, and assets and liabilities. I/We certify that all of the information is true and complete. I/We made no misrepresentations in the loan application with the employer and/or other documents, nor did I/We omit any pertinent information.
2. I/We understand and agree that BAY VALLEY MORTGAGE GROUP reserves the right to change the mortgage loan review process to a full documentation program. This may include verifying the information provided on the application with the employer and/or the financial institution.
3. I/We fully understand that it is a Federal crime punishable by fine or imprisonment, or both, to knowingly make any false statements when applying for this mortgage, as applicable under the provisions of Title 18, United States Code, Section 1014.

---

#### Authorization to Release Information

---

To Whom It May Concern:

1. I/We have applied for a mortgage loan from BAY VALLEY MORTGAGE GROUP.  
As part of the application process, BAY VALLEY MORTGAGE GROUP may verify information contained in my/our loan application and in other documents required in connection with the loan, either before the loan is closed or as part of its quality control program.
2. I/We understand and agree that BAY VALLEY MORTGAGE GROUP reserves the right to change the mortgage loan review process to a full documentation program. This may include verifying the information provided on the application with the employer and/or the financial institution.
3. BAY VALLEY MORTGAGE GROUP or any investor that purchases the mortgage may address this authorization to any party names in the loan application.
4. A copy of this authorization may be accepted as an original.
5. Your prompt reply to BAY VALLEY MORTGAGE GROUP or the investor that purchased the mortgage is appreciated.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Date

Social Security Number: \_\_\_\_\_

Social Security Number: \_\_\_\_\_

